

MEMBERS SITTING		VOTE OF THE BOARD				
		NON	BEN	UOTHC	OTHER	DENY
COL LLOYD F. LeROY						X
COL FREDERICK W. HORNICK						X
LT COL RICHARD M. STEDDING, JR.						X
LT COL NORMAN L. BURSON						X
LT COL DAVID A. CHRISTIANSON						X
ISSUE A94.07	INDEX NUMBER A39.00	EXHIBITS SUBMITTED TO THE BOARD				
HEARING DATE 980901 CASE NUMBER FD97-00344		1	ORDER APPOINTING THE BOARD			
		2	APPLICATION FOR REVIEW OF DISCHARGE			
		3	LETTER OF NOTIFICATION			
		4	BRIEF OF PERSONNEL FILE			
		COUNSEL'S RELEASE TO THE BOARD				
		ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE				
		TAPE RECORDING OF PERSONAL APPEARANCE HEARING				
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AFHQ FORM 0-454.						
REMARKS Case heard at Dobbins ARB, GA  Advise applicant of the decision of the Board.						
SIGNATURE OF RECORDER  RICHARD M. STEDDING, JR. LT COLONEL, USAF				SIGNATURE OF BOARD PRESIDENT  LLOYD F. LeROY, COLONEL, USAF		
INDORSEMENT					DATE 98/09/22	
TO: SAF/MIBR 650 C Street West, Suite 40 RANDOLPH AFB, TX 78160-4742				FROM: SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING 3rd Floor ANDREWS AFB MD 20331-7002		
ADVISE THE APPLICANT, NEXT OF KIN, LEGAL GUARDIAN OR OTHER OF THE BOARD'S DECISION. SEE REMARKS SECTION FOR ADDITIONAL INSTRUCTIONS.						

**GENERAL:** The applicant appeals for upgrade of discharge to Honorable and change of reason.

The applicant appeared and testified before the Discharge Review Board without counsel at Dobbins ARB, Georgia, on September 1, 1998. The following witness also testified on the applicant's behalf:  
Colonel (Ret) D\_\_\_\_, (friend).

The attached brief contains the available pertinent data on the applicant and the factors leading to the discharge.

**FINDINGS:** Upgrade of discharge is denied.

The Board finds that neither evidence of record nor that provided by the applicant substantiates an inequity or impropriety, which would justify a change of discharge.

The applicant's issues are listed in the attached brief.

**Issue:** The applicant contends that his undesirable discharge was inequitable because it does not accurately characterize his military service. The Board found that the seriousness of his misconduct; i.e., use of marijuana and hash on diverse occasions, outweighs the applicant's otherwise outstanding service. The Air Force's drug policy is well publicized and all are continually made aware that illegal drug activity is not tolerated. No inequity or impropriety was found in this issue upon which to base a decision to upgrade the discharge. The Board recognized the applicant's post service activities and the pride he takes in being a former member of the United States military; however, no inequity or impropriety in his discharge was suggested or found in the course of the records review or in testimony presented at the hearing. The Board concluded that the character of and reason for discharge were appropriate due to his misconduct.

**CONCLUSIONS:** The Discharge Review Board concludes that the discharge was consistent with the procedural and substantive requirements of the discharge regulation and was within the discretion of the discharge authority and that the applicant was provided full administrative due process.

In view of the foregoing findings the Board further concludes that there exists no legal or equitable basis for upgrade of or change of reason for discharge, thus the applicant's discharge should not be changed.

**Attachment:**  
Examiner's Brief

DEPARTMENT OF THE AIR FORCE  
AIR FORCE DISCHARGE REVIEW BOARD  
ANDREWS AFB, MD

[REDACTED]  
[REDACTED]  
(Former SSgt)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr USAF 90/02/28 UP AFR 39-10, para 4-1 (Discharge in Lieu of Court-Martial). Appeals for Honorable Discharge and Change in Reason for Disch.

2. **BACKGROUND:**

a. DOB: 63/01/29. Enlmt Age: 17 5/12. Disch Age: 27 0/12. Educ: HS  
DIPLO. AFQT: n/a M-99, A-69, G-99, E-96. PAFSC: A20875A - Airbourne  
Cryptologic Linguist. DAS: 86/07/19.

b. Prior Sv: Enld as AB on 80/06/30 for 4 years. Svd: 3 years 10  
months 7 days, all AMS. AMN - 80/08/14. AIC - 81/01/26. SRA (APR  
indicates): 82/09/02-83/09/01. SGT (APR indicates): 83/09/02-84/09/01).  
APRs: 8, 8.

3. **SERVICE UNDER REVIEW:**

a. Reenld as: Sgt on 84/05/07 for(6)Yrs. Ext on 89/04/24 for 7  
months. Svd: 5 Yrs 9 Mo 21 Das, all AMS.

b. Grade Status: SSgt - 86/04/01

c. Time Lost: none.

d. Art 15's: (1) 82/08/11, Hellenikon AB, Greece - You did, o/a 31  
July 82, willfully damage, by striking with your  
hand a video game machine of value of more than  
One Hundred Dollars (\$100.00), the property of  
M--- T---, the amount of said damage being in the  
sum of about Forty Dollars (\$40.00). Forfeiture  
of \$25.00. (No appeal)(No mitigation).

e. CM: none.

f. Record of SV: 83/09/02 84/09/01 Hellenikon AB 9 (Annual)  
84/09/02 85/06/01 Hellenikon AB 9 (CRO)

85/06/02 87/01/29 Hellenikon AB 9 (Annual)  
87/01/30 88/01/29 Hellenikon AB 9 (Annual)  
88/01/30 89/02/13 Hellenikon AB 9 (Annual)  
(Discharged from McGuire AFB)

g. Awards & Decs: AIR MEDAL W/18 OLC, AFGCM W/2 OLC, AFOUA, AFOEA, AFEM, NCOPMER, CRM W/1 OLC, AFLSAR, AFTR.

h. Stmt of Sv: TMS: (9) Yrs (7) Mos (30) Das  
TAMS: (9) Yrs (7) Mos (30) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 97/07/02.  
(Change Discharge to Honorable and Change Reason for Discharge)

Issue 1: My undesirable discharge was inequitable because it does not accurately characterize my military service.

ATCHS

1. DD Form 214.
2. Applicant's Statement (attached to brief).
3. Wife's Statement.
4. Eight (8) Character References.

97/07/28/ia

April 21, 1997

To whom it may concern:

This letter is to accompany my request for the upgrade of my discharge characterization of service from under other than honorable conditions to honorable. I realize that it is unusual to request an upgrade of two steps. However, I feel that there are mitigating factors to be considered which may justify a decision on your part to upgrade my discharge status to honorable.

1. Performance of service

This is the main point of this letter. The title of item 24 on my certificate of discharge from active duty is "CHARACTER OF SERVICE" and it says under that item "UNDER OTHER THAN HONORABLE CONDITIONS." I think that this should reflect all of my service, and not be based entirely on one minor aspect of my life. I was not a habitual offender. I was never under the influence of any drug (legal or otherwise) when on duty. We were in an extremely high-pressure field of operations. Everyone had his or her own way of unwinding when off-duty. Some forms of intoxication were actively provided for by the Air Force (e.g., NCO Club), others were punished. My way was against one of the rules and I have never denied it. I think, however, that the punishment should fit the crime, and that credit should be given for the honorable things that a person has done. To characterize my service as anything less than honorable, in light of everything *else* I did, indicates an unreasonable emphasis on form over substance.

2. Responsibility

One of the reasons, I was told, for the push toward a less than honorable service characterization, was my position of responsibility as a supervisor and leader. I would hope that my performance reports and letters from coworkers included in this package speak for themselves on this matter. I firmly believe that my performance of operational duty was never negatively impacted by anything that I did when off duty, and that no other service members with whom I worked were negatively affected.

3. Security considerations

During my almost ten years of service in the Air Force, I was never, at any time, a security risk. My dedication to my service and country should be evident from my APR's and the letters from my co-workers and supervisors. I was told during my discharge proceedings that the reason for the harsh treatment was my security clearance, job type, and the possibility that some illegal activity on my part could have made me a target for blackmail by some foreign

intelligence agency. This concern, if it existed, should have been assuaged by the fact that the first time I was confronted about marijuana use, I made an honest statement of my guilt. I was *never* a security risk, and I have continued to this day to preserve the secrecy of the operations with which I was involved.

4. Discharge process

Another factor which I think should be examined is the process by which my service was characterized as other than honorable. When confronted by the OSI about the accusations made against me, I decided to be honest, and confessed. This confession was then used as ammunition to begin court-martial proceedings against me. A trial to determine guilt at this point would have been a farce, especially considering the other options available. The court martial was being used as a threat to ensure that I would "cooperate" in the prosecution of other members. Since I had already confessed, in writing, I was told that I would be found guilty as charged, and have, at the very least, a felony record. To the best of my knowledge, in the United States, simple use of marijuana has never been a felony offense. At this point, discharge in lieu of trial by court martial was the only other option available and was recommended by my attorney. In similar cases with which I'm familiar, in which the accused have *not* admitted guilt, the standard process has always concluded with non-judicial punishment and a service characterization of general under honorable conditions, even when the accused failed multiple urinalyses. Individuals in this situation then have the option of requesting an upgrade of discharge from general under honorable conditions to honorable. Given the nature of my offense, it should not be any more difficult for me to receive an upgrade to honorable, especially when I admitted my error and did not attempt to lie my way out of it.

Nothing that I have written here is intended to excuse misbehavior. However, given the circumstances of my separation proceedings, and what my coworkers and supervisors have stated is an otherwise exemplary service record, I think that a review of my case is justified and ask that each member of the discharge review board read each piece of evidence which I've presented with this package, including the text of my APR's. Justice has not yet been served. The present characterization of my service, in my opinion, reflects badly not just upon me, but on the characterization process itself.

These statements are true to the best of my knowledge and I am willing to discuss them at any time. I appreciate the opportunity to submit this information to you, in the hope that you will see fit to upgrade my discharge status to honorable. I have always been, and still remain, loyal and dedicated to my country.

With respect,





DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 7206TH AIR BASE GROUP (USAF)  
APO NEW YORK 09223-5000

FD 97-00348

REPLY TO  
ATTN OF: JA

17 NOV 1989

SUBJECT: Legal Review of Request for Discharge in Lieu of Court-Martial

TO: 7206 ABG/CC

1. On 14 November 1989, 6916th ESS submitted a request for discharge in lieu of court-martial. On 17 November 1989, the Squadron Commander, Lt [REDACTED] recommended the request for discharge be approved and that [REDACTED] be awarded an Under Other Than Honorable Conditions Discharge.

2. For the Government: On 14 November 1989, the Squadron Commander, [REDACTED] preferred a charge in violation of UCMJ Article 112a with one specification of wrongful use of hashish at divers times between 1 May 1989 and 5 October 1989. The charge and specification were recommended for trial by Special Court-Martial. The evidence consists of a confession by [REDACTED] in which he admits multiple uses of hashish. The statement of a civilian employee, [REDACTED] indicates he has smoked hashish with [REDACTED] on four occasions. Another civilian employee, [REDACTED] indicates that [REDACTED] asked if Lopez could sell him hashish on one occasion.

3. For the Respondent: The respondent has not submitted any documentation in support of his request for discharge in lieu of court-martial. He has cooperated fully with investigators in resolving the use of drugs by himself and others. In addition, his records as reflected by his Airman Performance Reports are very good. His overall ratings on his airman performance reports (beginning with the most recent) are 9, 9, 9, 9, 9, 8, and 8.

4. Errors and Irregularities: This case has been prepared in substantial compliance with the requirements of AFR 39-10. No errors or irregularities were noted.

5. Discussion:

a. [REDACTED] meets the criteria for discharge under AFR 39-10, paragraph 4-1. The case has been properly processed.

b. A discharge is appropriate for [REDACTED] under AFR 39-10, paragraph 4-2. The appropriate discharge characterization, in light of the criteria in AFR 39-10, paragraph 1-18, is an Under Other Than Honorable Conditions Discharge.